

Internal Revenue Service

Department of the Treasury

District
Director

Person to Contact

Telephone Number

Refer Reply to

Date

24 OCT 1983

Dear Applicant:

Your application for exemption from Federal Income Tax as an organization described in Section 501(c)(6) of the Internal Revenue Code has been given consideration.

The information submitted discloses that you were incorporated under the nonprofit laws of the State of [REDACTED] on [REDACTED]. Your stated purposes are to provide "maintenance, preservation, development, improvement and environmental control of the building, lots and common property" within an office park located in [REDACTED], a suburb of [REDACTED].

The office park currently consists of [REDACTED] office buildings (additional buildings are expected to be completed over the next three years), roads, sidewalks, driveways, parking lots and lawns. There are [REDACTED] members in the Association, each of which owns one of the [REDACTED] buildings in the park. Members are assessed [REDACTED]¢ per square foot per month.

On [REDACTED], [REDACTED] (owner of Lots [REDACTED] and [REDACTED], [REDACTED]) and [REDACTED] (owner of Lot [REDACTED], [REDACTED]) joined together to create an office park project and draw up a Declaration of Covenants, Conditions and Restrictions. According to the Site Plan submitted, it appears that [REDACTED] occupy [REDACTED] of the [REDACTED] existing buildings.

In addition to maintaining the common areas throughout the park, the organization also provides exterior maintenance (painting and restaining), siding, cleaning exterior windows, replacing exterior lights, etc.) to the buildings owned by members.

Section 1 501(c)(6)-1 of the Income Tax Regulations provides, in part, as follows:

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest---. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.---"

Revenue Ruling 50-391, 1959-2, C. B. 151, describes an organization composed of individuals, firms, associations and corporations, each representing a different trade, business, occupation or profession whose purpose is to exchange information on business prospects. The ruling held that there was no common business interest other than a mutual desire to increase their individual sales.

Revenue Ruling 73-411, 1973-2, C.B. 180, describes a shopping center merchants association whose membership is restricted to, and required of, the tenants of a one-owner shopping center and their common lessor, and whose activities include promotional affairs and advertising to publicize the center. The ruling held that their activities promoted the business interests of members only, rather than the industry as a whole. The ruling went on to state that since the organization is not structured along particular industry or business lines, its right to exemption rests on its characterization as a chamber of commerce or board of trade. The ruling states, in part, as follows:

"Events related to the original enactment of what is now section 501(c)(6) of the Code also reflect that the organizations referred to at that time as chambers of commerce and similar organizations were voluntary associations of a semi-public nature; also, that they were organizations whose membership was representative of the commercial interests of a trade area comprising a broad segment of the general public such as a city or similar geographical or political area. See, for example, the hearings before the State Committee on Finance on H.R. 3321, 63rd Cong., 1st Sess. 2001, 2003 (1913) in which the Chamber of Commerce of the United States commented extensively on the character or the type of organizations in question."

Revenue Ruling 66-338, 1966-2 C.B. 226, describes an organization formed to promote the interests of a particular retail trade which advises its members in the operation of their individual businesses and sells supplies and equipment to them. The ruling held that the organization did not qualify for exemption because its activities provided members with an economy and convenience by enabling them to secure supplies, equipment, and services more cheaply than if they had to secure them on an individual basis.

In Lake Peterchurch Association v. Commissioner, 33 CCH Tax Ct. Mem 253 (1974), the court denied exemption to an organization formed to own, construct, operate and maintain and control a lake and adjacent facilities. The organization owned a lake comprising

approximately 200 acres and approximately 700 acres of surrounding land. The lots were divided into three zones as follows: a) 274 lots were designed as residential; b) 10 lots were designed as commercial, and c) 569 lots were designated as unrestricted. All structures had to comply with the organization's building code. The court held that the organization did not qualify under sections 501(c)(4), 501(c)(6), 501(c)(7), or 501(c)(12) of the Code. The court case states, in part, as follows:

"We find that Lake Petersburg directly benefited only those people who were members and who therefore could enjoy the facilities and environment that the lake provides. Although the initial idea behind Lake Petersburg was to stimulate the economy of the City of Petersburg, we believe that the economic benefits to the citizenry of Petersburg were indirect and remote. Accordingly, we conclude that Lake Petersburg was operated primarily for the benefit of its members rather than for the benefit of the entire community."

Revenue Ruling 78-86 as published in Cumulative Bulletin 1978-1, on page 151, states, in part as follows:

"A parking arrangement whereby merchants join together to provide parking for their customers at a reduced rate serves the merchants' private interests by encouraging the public to patronize their stores."

Based upon information submitted, it appears that the only common business interests your members have is the preservation and maintenance of their building and common properties.

Therefore, we have concluded that you do not qualify as an organization described in Section 501(c)(6) of the Code.

You are required to file Federal income tax returns annually on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this proposed adverse determination letter, appear to the Regional Office through this Key District Office. Your appeal should contain the information described under Regional Office Appeal in the enclosed Publication 892, and should be mailed to this office. The Regional Office will let you know what action they take and will set a date and place for any conference to be held.

This is a determination letter.

Sincerely yours,

District Director

Enclosure:
Publication 892
Form 6018